IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4503 OF 2005

Madhukar Govind Joshi & 6 Ors. ...Petitioners.
V/s.
The State of Maharashtra & 4 Ors. ...Respondents.

None for Petitioners.

Mrs.M.P.Thakur, A.G.P. for Respondent No.1.

Mr.R.G.Ketkar for Respondent No.2.

Mr.S.B.Deshmukh for Respondent No.3.

CORAM: H.L.GOKHALE &
J.H.BHATIA, JJ.
DATE : 11th July, 2006.

P.C.:

1. This matter was called for hearing today. Nobody was present for the Petitioners. Matter was kept back. Again nobody is present.

2. The Petitioners are seeking to challenge the plan of the construction of building where they are staying and which building has been developed by the Respondent No.3. According to them, there are certain violations of the relevant construction rules of the Municipal Corporation.

3. It is material to note that the Petitioners had earlier filed a suit praying that a lane upto the

building wherein they are staying ought to have been of width of 9 feet. The Commissioner was appointed. The Commissioner gave a report that the lane was of 9 feet 9 inch and the Interim Application moved by the Petitioners was dismissed. The Appeal therefrom was also dismissed.

4. Mr.Ketkar appearing for the Pune Municipal Corporation fairly points out that the Municipal Corporation was not joined as Defendant in that suit. However, the fact remains that as far as the Petitioners are concerned if they had any grievances with respect to construction and with respect to plan, they are expected to raise all those disputes in the original proceedings which they had filed. All such pleas have to be raised at the same time as required under Order 2 Rule 2 of the Civil Procedure Code. The Party can not be permitted to raise some issues conveniently at the later point of time. The Petition is, therefore, dismissed.

5. Although the Petition is dismissed, we clarify that if the Petitioners desire, they may join Municipal Corporation in the pending suit and seek appropriate reliefs over there.

...

(H.L.GOKHALE,J.)

(J.H.BHATIA,J.)